

**From:** [troy booth](#)  
**To:** [Halpern NYSD Chambers](#)  
**Subject:** Fwd: Case#7:16cv 3477  
**Date:** Sunday, March 20, 2022 11:51:43 AM

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**CAUTION - EXTERNAL:**

Sent from my iPhone

Begin forwarded message:

**From:** troy booth <troysr100@outlook.com>  
**Date:** March 20, 2022 at 10:45:22 AM CDT  
**To:** AD2-ClerksOffice@nycourts.gov  
**Subject:** Case#7:16cv 3477

Good day I am a retired New York State correction sergeant I am being held accountable for \$50,000. I feel like something unfair is going on with this case. April 24, 2018 the plaintiff had an error filing. January 10, 2020 my union went against a contract agreement and stop representing me. February 13 2020 I did not receive the documents they claim, April 3, 2020 I was representing myself with no knowledge ,May 11th 2020 I was living different address ,March 10, 2021They file papers to the wrong address ,August 4, 2021 the plaintiff remedies were exhausted according to the court papers ,10 /25/21 and 2/1022 The court received letters from me that was my way of answering this complaint to my knowledge  
forgive me for the long email I have submitted photos for court documents.

The Court construes Defendant Booth's March 20, 2022 e-mail as a motion to vacate the default judgment entered against him for compensatory damages in the amount of \$50,000. Construing Defendant Booth's motion liberally, in light of his *pro se* status, the Court finds that his motion is unsupported by fact and law. Indeed, Plaintiff's counsel served Defendant Booth with copies of all filings and orders relevant to the default proceedings against him. (Docs. 202-03, 213, 215-5 at 17, 218, 222). Defendant Booth does not claim, and provides no evidence, that he did not receive notice of the inquest hearing held on March 10, 2022--he simply chose not to participate. Defendant Booth offers no reason, other than his *pro se* status, for his failure to participate in his defense and comply with this Court's orders. But this reason is insufficient to warrant vacatur, as a litigant's *pro se* status does not prevent him or excuse him from participating in his defense. Therefore, to the extent Defendant Booth moves to vacate the default judgment entered against him, that motion is denied. *See, e.g., First Palm Beach Int'l Bank v. Banco de Descuento, S.A.*, No. 85-CV-03656, 1989 WL 38122, at \*5 (S.D.N.Y. Apr. 7, 1989) (denying motion to vacate default judgment where defendant "received proper notice in this matter and failed to participate in its disposition").

A Judgment will be docketed separately.

Plaintiff's counsel is directed to serve a copy of this order on Defendant Booth and file proof of service on the docket.

SO ORDERED.



Philip M. Halpern  
United States District Judge

Dated: White Plains, New York  
March 29, 2022





03/10/2021	168	MEMORANDUM OPINION AND ORDER re: 152 MOTION for Sanctions Pursuant to Rule 37 with Certificate of Service, filed by Kevin Thompson, 156 MOTION for Summary Judgment, filed by Garnot, Virginia, C.O. Jordan, Salerno. The Represented Defendants' motion for summary judgment is DENIED. Peterson's motion for summary judgment is GRANTED, and Plaintiff's motion for sanctions is GRANTED. The Clerk is directed to terminate Defendant Charlotte Peterson from the docket, to strike Defendant Sgt. Booths Answer from the docket (Doc. 113), and to terminate the pending motions (Docs. 152, 156). The Clerk is directed further to mail a copy of this Memorandum Opinion and Order to Defendant Peterson at the address on the docket and to Defendant Booth at 111 Tillson Avenue, Apartment 2, Highland, NY 12528. The Court shall hold a Case Management Conference on April 7, 2021 at 12:00 p.m. At the time of the scheduled conference all parties shall call (888) 398-2342; access code: 3456831. SO ORDERED. Charlotte Peterson terminated. Case Management Conference via telephone set for 4/7/2021 at 12:00 PM before Judge Philip M. Halpern. (Signed by Judge Philip M. Halpern on 3/10/2021) (r) Transmission to Docket Assistant Clerk for processing. (Entered: 03/10/2021)
03/10/2021		Mailed a copy of 168 Memorandum & Opinion, Add and Terminate Parties, Set Hearings, to Sgt. Booth at 111 Tillson Avenue, Apartment 2, Highland, NY 12528 and Charlotte Peterson at P. Box 634, Wappingers Falls, NY 12590. (dsh) (Entered: 03/10/2021)
03/31/2021		Received returned mail re: 168 Memorandum & Opinion, Add and Terminate Parties, Set Hearings. Mail was addressed to Sgt. Booth, 11 Tillson Avenue, Apartment 2, Highland, NY 12528 and was returned for the following reason(s): Return To Sender Not Deliverable As Unable To Forward. (vn) (Entered: 04/01/2021)
04/06/2021	169	LETTER addressed to Judge Philip M. Halpern from Joseph Dever dated April 6, 2021 re: writing in advance of the case management conference scheduled for tomorrow. Wednesday, April 7, 2021, to preview for the Court several matters we intend to address at the conference. Document filed by Kevin Thompson. (Dever, Joseph) (Entered: 04/06/2021)
04/06/2021	170	MEMO ENDORSEMENT on re: 169 Letter, filed by Kevin Thompson. ENDORSEMENT: Pro bono counsel's request to appear and participate at tomorrow's conference is granted. The other issues raised in Plaintiff's letter will be addressed at the conference. SO ORDERED. (Signed by Judge Philip M. Halpern on 4/6/2021) (ks) (Entered: 04/06/2021)
04/07/2021		Minute Entry for proceedings held before Judge Philip M. Halpern: Telephone Conference held on 4/7/2021. Counsel for Plaintiff and counsel for Defendants Salerno, Garnot, Vigna, and Jordan appeared via telephone. Pro se Defendant Booth did not appear. By April 16, 2021, the parties shall submit a joint letter addressing whether the parties consent to conducting an evidentiary hearing to determine the PLRA exhaustion issue as discussed at the conference. By April 23, 2021, the parties shall submit a joint letter regarding availability for such a hearing and a proposal for how the hearing will proceed. Plaintiff is granted permission to move for a default judgment against Defendant Booth in compliance with the Court's individual Practices, if so advised. Additionally, the parties are directed to meet and confer to discuss settlement and shall jointly notify the Court if the parties wish be referred to the Magistrate Judge for the purpose of settlement. (bk) (Entered: 04/07/2021)
04/09/2021	171	PROPOSED CLERK'S CERTIFICATE OF DEFAULT. Document filed by Kevin Thompson..(McDonald, Hallie) Proposed document to be reviewed and processed by Clerk's Office staff (No action required by chambers). (Entered: 04/09/2021)

08/02/2021	191	LETTER addressed to Judge Philip M. Halpern from William Lesser dated August 2, 2021 re: Plaintiff's exhibits. Document filed by Kevin Thompson. (Attachments: # 1 Plaintiff's Exhibit 1, # 2 Plaintiff's Exhibit 2, # 3 Plaintiff's Exhibit 3, # 4 Plaintiff's Exhibit 4, # 5 Plaintiff's Exhibit 5)(Lesser, William) (Entered: 08/02/2021)
08/02/2021	192	LETTER addressed to Judge Philip M. Halpern from Janice Powers, AAG dated 8/2/2021 re: Exhibits Uploaded and Mailed to Court. Document filed by Garnot, C.O. Jordan, Salerno, Vigna. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit)(Powers, AAG 1.) (Entered: 08/02/2021)
08/04/2021	193	ORDER: For the reasons indicated on the record and law cited therein, the Court found that Plaintiff failed to satisfy his burden of production to establish that the administrative grievance process was "unavailable" to him. Williams v. Priano, 829 F.3d 118, 123 (2d Cir. 2016). Therefore, the Court found that Plaintiff failed to exhaust his administrative remedies as required under the Prison Litigation Reform Act ("PLRA"). Because Plaintiff failed to exhaust his remedies, this action is dismissed with prejudice as to Defendants Salerno, Garnot, Jordan, and Vigna. The Court grants Plaintiff permission to seek a default judgment on liability with respect to Defendant Booth in accordance with this Court's Individual Practices. In doing so, Plaintiff must specify why it is permissible for this case to proceed with respect to Defendant Booth, despite the Court's finding that Plaintiff failed to exhaust his administrative remedies under the PLRA. See transcript. SO ORDERED. Salerno, Vigna, Garnot (CO) and C.O. Jordan terminated. (Signed by Judge Philip M. Halpern on 8/4/2021) (jca) (Entered: 08/04/2021)
09/07/2021	194	ORDER: Plaintiff is directed to provide a status update regarding his proposed motion for default judgment against Defendant Booth by September 10, 2021 at 5:00 p.m. (HEREBY ORDERED by Judge Philip M. Halpern) (Text Only Order) (msr) (Entered: 09/07/2021)
09/09/2021	195	LETTER MOTION for Extension of Time to File - request that Plaintiff be granted leave to file his proposed Order to Show Cause on or before October 8, 2021 addressed to Judge Philip M. Halpern from Hallie McDonald dated September 9, 2021. Document filed by Kevin Thompson..(McDonald, Hallie) (Entered: 09/09/2021)
09/10/2021	196	ORDER granting 195 Letter Motion for Extension of Time to File. Application granted. Plaintiff, should he be so advised, shall file an order to show cause for default judgment against Defendant Booth by October 8, 2021. The Clerk of the Court is respectfully directed to terminate the motion sequence pending at Doc. 195. (Signed by Judge Philip M. Halpern on 9/10/2021) (tg) (Entered: 09/10/2021)
10/08/2021	197	FILING ERROR - DEFICIENT DOCKET ENTRY - FILER ERROR - PROPOSED ORDER TO SHOW CAUSE WITHOUT EMERGENCY RELIEF. Document filed by Kevin Thompson. (Attachments: # 1 Affidavit of Hallie McDonald, Esq. in Support of



2/2020	139	Kevin Thompson. (Attachments: # 1 Text of Proposed Order)(Lesser, William) (Entered: 02/12/2020)	139	MEMORANDUM OF LAW in Support re: 138 MOTION to Compel Defendant Sgt. Booth to appear for Deposition. . . Document filed by Kevin Thompson. (Lesser, William) (Entered: 02/12/2020)
02/13/2020	140	ORDER ON PLAINTIFF'S MOTION TO COMPEL granting 138 Motion to Compel. AND NOW, this 13 day of Feb., upon consideration of Plaintiff's Motion to Compel, it is hereby ORDERED and DECREED that said Motion is GRANTED. Defendant Sgt. Booth is ORDERED to appear for his deposition on March 3, 2020 at 10:00 AM at the law offices of Cozen O'Connor, 45 Broadway, Suite 1600, New York, New York 10006 and counsel for Sgt. Booth is ORDERED to serve this Order and inform Sgt. Booth of his scheduled deposition through all available means, including but not limited to, his last known address, telephone number, and personal email address, if known. BY THE COURT. (Signed by Magistrate Judge Paul E. Davison on 2/13/2020) (ks) (Entered: 02/13/2020)	140	ORDER ON PLAINTIFF'S MOTION TO COMPEL granting 138 Motion to Compel. AND NOW, this 13 day of Feb., upon consideration of Plaintiff's Motion to Compel, it is hereby ORDERED and DECREED that said Motion is GRANTED. Defendant Sgt. Booth is ORDERED to appear for his deposition on March 3, 2020 at 10:00 AM at the law offices of Cozen O'Connor, 45 Broadway, Suite 1600, New York, New York 10006 and counsel for Sgt. Booth is ORDERED to serve this Order and inform Sgt. Booth of his scheduled deposition through all available means, including but not limited to, his last known address, telephone number, and personal email address, if known. BY THE COURT. (Signed by Magistrate Judge Paul E. Davison on 2/13/2020) (ks) (Entered: 02/13/2020)
02/13/2020		Minute Entry for proceedings held before Judge Kenneth M. Karas: Status Conference held on 2/13/2020. William Lesser appeared on behalf of Plaintiff. Janice Powers appeared on behalf of Defendants Booth, Salerno, Garnot, Vigna, and Jordan. Charlotte Peterson appeared on behalf of herself. No court reporter served. The Court noted that the pending Motion to Compel Defendant Booth's deposition is before Magistrate Judge Paul E. Davison and that the pending Motion to Withdraw filed by Janice Powers is under consideration in this Court. The Court instructed Defendant Peterson that it would accept her letter, Dkt. No. 131, as a pre-motion letter on a putative motion for summary judgment, but that resolution of any claims against her must wait until the end of discovery. The Parties are scheduled to appear again on April 23, 2020 at 10:30 a.m. Any other pre-motion letters are due April 9, 2020. Non-movant's response to all pre-motion letters is due April 16, 2020. The Clerk of Court is respectfully requested to mail a copy of this docket sheet to pro se Defendant Peterson. (GC) (Entered: 02/13/2020)		Minute Entry for proceedings held before Judge Kenneth M. Karas: Status Conference held on 2/13/2020. William Lesser appeared on behalf of Plaintiff. Janice Powers appeared on behalf of Defendants Booth, Salerno, Garnot, Vigna, and Jordan. Charlotte Peterson appeared on behalf of herself. No court reporter served. The Court noted that the pending Motion to Compel Defendant Booth's deposition is before Magistrate Judge Paul E. Davison and that the pending Motion to Withdraw filed by Janice Powers is under consideration in this Court. The Court instructed Defendant Peterson that it would accept her letter, Dkt. No. 131, as a pre-motion letter on a putative motion for summary judgment, but that resolution of any claims against her must wait until the end of discovery. The Parties are scheduled to appear again on April 23, 2020 at 10:30 a.m. Any other pre-motion letters are due April 9, 2020. Non-movant's response to all pre-motion letters is due April 16, 2020. The Clerk of Court is respectfully requested to mail a copy of this docket sheet to pro se Defendant Peterson. (GC) (Entered: 02/13/2020)
02/18/2020	141	LETTER addressed to Magistrate Judge Paul E. Davison from AAG J. Powers dated 2/18/2020 re: Contact for Def. Booth. Document filed by Booth. (Powers, AAG J.) (Entered: 02/18/2020)	141	LETTER addressed to Magistrate Judge Paul E. Davison from AAG J. Powers dated 2/18/2020 re: Contact for Def. Booth. Document filed by Booth. (Powers, AAG J.) (Entered: 02/18/2020)
04/03/2020	142	ORDER on MEMORANDUM OF LAW IN SUPPORT granting 132 Motion to Withdraw as Attorney. ENDORSEMENT: Counsel's application to withdraw as counsel to Defendant Booth is granted. The Clerk of Court is directed to terminate the Motion at Docket No. 132 SO ORDERED. (Signed by Judge Kenneth M. Karas on 4/3/2020) Attorney AAG J. Powers terminated (ks) (Entered: 04/03/2020)	142	ORDER on MEMORANDUM OF LAW IN SUPPORT granting 132 Motion to Withdraw as Attorney. ENDORSEMENT: Counsel's application to withdraw as counsel to Defendant Booth is granted. The Clerk of Court is directed to terminate the Motion at Docket No. 132 SO ORDERED. (Signed by Judge Kenneth M. Karas on 4/3/2020) Attorney AAG J. Powers terminated (ks) (Entered: 04/03/2020)
04/15/2020	143	LETTER MOTION to Adjourn Conference addressed to Judge Kenneth M. Karas from AAG J. Powers dated 4/15/2020. Document filed by Garnot, C.O. Jordan, Vigna, Salerno, Vigna. (Powers, AAG J.) (Entered: 04/15/2020)	143	LETTER MOTION to Adjourn Conference addressed to Judge Kenneth M. Karas from AAG J. Powers dated 4/15/2020. Document filed by Garnot, C.O. Jordan, Vigna, Salerno, Vigna. (Powers, AAG J.) (Entered: 04/15/2020)
04/15/2020	144	LETTER MOTION for Extension of Time for motion practice addressed to Judge Kenneth M. Karas from J. Powers, AAG dated 4/15/2020. Document filed by Garnot, C.O. Jordan, Salerno, Vigna. (Powers, AAG J.) (Entered: 04/15/2020)	144	LETTER MOTION for Extension of Time for motion practice addressed to Judge Kenneth M. Karas from J. Powers, AAG dated 4/15/2020. Document filed by Garnot, C.O. Jordan, Salerno, Vigna. (Powers, AAG J.) (Entered: 04/15/2020)
04/15/2020	145	ORDER granting in part and denying in part 143 Letter Motion to Adjourn Conference. Defendants' summary judgment motion is due 6/15/20. While the pandemic is disrupting the normal routine of work, it is likely to continue to do so for the foreseeable future. Two months is adequate time to prepare the motion in this four-year-old case. Plaintiff's response is due 7/15/20. Defense reply is due 7/29/20. Defendants are to mail this endorsement to Plaintiff and confirm they did so by 4/22/20. (Signed by Judge Kenneth M. Karas on 4/15/20) (yv) (Entered: 04/15/2020)	145	ORDER granting in part and denying in part 143 Letter Motion to Adjourn Conference. Defendants' summary judgment motion is due 6/15/20. While the pandemic is disrupting the normal routine of work, it is likely to continue to do so for the foreseeable future. Two months is adequate time to prepare the motion in this four-year-old case. Plaintiff's response is due 7/15/20. Defense reply is due 7/29/20. Defendants are to mail this endorsement to Plaintiff and confirm they did so by 4/22/20. (Signed by Judge Kenneth M. Karas on 4/15/20) (yv) (Entered: 04/15/2020)
04/15/2020		Set/Reset Deadlines: Motions due by 6/15/2020. Responses due by 7/15/2020. Replies		Set/Reset Deadlines: Motions due by 6/15/2020. Responses due by 7/15/2020. Replies





**CAUTION - EXTERNAL EMAIL:** This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.